

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

North States Industries, Inc.,

Plaintiff,

v.

Patent Compliance Group, Inc.,

Defendant.

JURY TRIAL DEMANDED

10-820 MJD/JSM

COMPLAINT

Plaintiff North States Industries, Inc. ("NSI") alleges as follows:

THE PARTIES

1. Plaintiff NSI is a corporation incorporated under the laws of the State of Minnesota. NSI has a principal place of business at 1507 92nd Lane N.E., Blaine, Minnesota 55449.

2. Upon information and belief, Defendant Patent Compliance Group, Inc. ("PCG") is a Texas Corporation having its principal place of business at 4223 Buena Vista Street, Suite 4, Dallas, Texas 75205.

JURISDICTION AND VENUE

3. This is a declaratory judgment action under 28 U.S.C. §§ 2201 and 2202, concerning issues relating to patent marking under 35 U.S.C. § 292. Jurisdiction is proper under 28 U.S.C. §§ 1331, 1332, 1338(a), 2201, and 2202.

SCANNED
MAR 17 2010
U.S. DISTRICT COURT MPLS

4. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(a) and (b) because a substantial part of the events or omissions giving rise to the claim occurred in this District.

FACTUAL BACKGROUND

5. United States Patent No. 4,607,455 (the "'455 patent"), titled "Adjustable Gate for Doorways," was filed on October 1, 1984 and issued by the United States Patent and Trademark Office ("USPTO") on August 6, 1986. (*See* Ex. A.) NSI is the assignee of the '455 patent.

6. United States Patent No. 4,677,791 (the "'791 patent"), titled "Adjustable Gate for Doorways," was filed on June 13, 1986 and issued by the USPTO on July 7, 1987. (*See* Ex. B.) NSI is the assignee of the '791 patent.

7. On March 1, 2010 PCG filed a lawsuit in the Northern District of Texas, alleging that NSI has falsely marked various unidentified pet gate products with the '455 and '791 patents.

8. NSI did not intend to deceive, and has not deceived, the public by falsely marking (or causing to be marked) any of the various unidentified pet gate products.

9. An actual case and controversy exists between NSI and PCG concerning whether NSI has falsely marked various unidentified pet gate products under 35 U.S.C. § 292.

COUNT I

NO FALSE MARKING UNDER 35 U.S.C. § 292

10. The allegations of paragraphs 1–9 are repeated, re-alleged, and incorporated herein by reference.

11. NSI has not falsely marked and is not falsely marking any of the various unidentified pet gate products under 35 U.S.C. § 292.

PRAYER FOR RELIEF

WHEREFORE, NSI prays that the Court enter:

A. A declaratory judgment that NSI did not falsely mark any of the various unidentified pet gate products under 35 U.S.C. § 292;

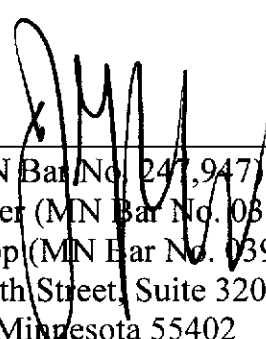
B. An order enjoining and restraining PCG and its officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them from further charges of false marking or acts of enforcement based upon the '455 and '791 patents against NSI or its actual and prospective customers, suppliers, clinical investigators, and anyone in privity with NSI; and

C. An order awarding NSI such other further relief as the Court deems just and equitable.

Dated: March 16, 2010

CARLSON, CASPERS, VANDENBURGH &
LINDQUIST

By:



Jeffer Ali (MN Bar No. 247,947)
Todd S. Werner (MN Bar No. 033019X)
Peter Kohlhepp (MN Bar No. 0390454)
225 South Sixth Street, Suite 3200
Minneapolis, Minnesota 55402
(612) 436-9600
tswerner@ccvl.com

*Attorneys for Plaintiff North States Industries,
Inc.*